IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRI. APPELLATE JURISDICTION

CRIMINAL WRIT PETITION 2698 OF 2004

Abu Miya Jhangir Shaikh
R/o B-147-1/3, Shaikh Misri Road,
S.M. Road, Antop Hill,
Mumbai - 400 037. ... Petitioner

V/s

The State of Maharashtra,
through C.I.D., Crawford Market,
Mumbai - 400 001. ... Respondents

Mr. M.S. Ahmed for the petitioner.

Mr. D.S. Mhaispurkar, A.P.P. for the respondents.

CORAM: R.M.S. KHANDEPARKAR &
P.V. KAKADE, JJ.

DATED: 2ND MARCH, 2005

ORAL JUDGMENT (Per Khandeparkar, J.):

1. Heard.

2. Perusal of the record discloses that the present petition is absolutely frivolous petition and every attempt is being made to mislead the Court at every stage. When the petition was filed, the fact that the petitioner had earlier approached the Special Court by way of Misc. Application No. 72 of 2004 as well as

Misc. Application No. 152 of 2004 being C.R. Nos. 121 and 124 of 2001 respectively, was suppressed. The said fact was brought to the notice by the affidavit in reply filed by the respondent State. Thereupon an attempt was made to produce photo-pass allegedly in relation to the Flat No. 147-2/2 as being the structure in question. At the same time, reliance is also placed on leave and licence agreement, which do not disclose any date, to contend that the petitioner had inducted some other person in the said suit premises. However, the leave and licence agreement refers to the structure bearing No. B-147-1/3. It is sought to be contended that the structure number was wrongly mentioned in the leave and licence agreement. Apart from the mere submission in that regard by the learned advocate for the petitioner, there is nothing on record to disclose that there was any mistake in the said number. In fact, said number was recorded at two places in the agreement. That apart, it appears that the said agreement was sought to be produced before the Special Court in Misc. Application No. 152 of 2004 wherein the Court below had clearly observed that the said agreement prima facie appears to be concocted one to suit to the claim of the petitioner and the same is not genuine agreement. In any case, mere agreement of leave and licence cannot

create any sort of claim, title and interest in favour of the petitioner in relation to the property disclosed in the said agreement. Title or right to the property is to be established by way of appropriate document in that regard. The petitioner has not ever disclosed any such evidence inspite of having dismissed the application twice in that regard by the Sessions Judge. The third attempt is made by the present petitioner without disclosing any cogent material in support of his claim to the property.

3. The petition is, therefore, dismissed with costs of Rs.2,000/-. The costs shall be deposited by the petitioner within two weeks with the Registry. On deposit of costs, the Registry to credit the said amount to the account of Maharashtra Legal Aid Service, High Court, Bombay.

(R.M.S. Khandeparkar, J.)

(P.V. Kakade, J.)